

**FINAL**  
**Washington State Department of Ecology**  
**Solid Waste Advisory Council Subcommittee on Electronics Waste**  
**July 12, 2005**

The Solid Waste Advisory Subcommittee (SWAC) on Electronic Products (E-waste) met on Tuesday, July 12, 2005 in Federal Way, Washington.

**SWAC Subcommittee Members Present:** Vicki Austin, Washington Refuse and Recycling Association; Nancy Atwood, AeA; Dennis Durbin, Stevens County; Jan Gee, Washington Retail Association; Tiffany Hatch, Goodwill Industries; Sego Jackson, Snohomish County; Craig Lorch, Total Reclaim; Mo McBroom, Washington Environmental Council; Suellen Mele, Washington Citizens for Resource Conservation; Grant Nelson, Association of Washington Businesses; Jay Shepard, Washington State Department of Ecology; Bill Smith, City of Tacoma Solid Waste; Cullen Stephenson, Washington State Department of Ecology; Frank Warnke, Advocates, Inc. Also present were members of the Agreement Dynamics facilitation team: Dee Endelman, facilitator and Ginny Ratliff, notetaker.

Attachment #A to these notes is a list of all participants, including audience members, many of whom are members of the Technical Team.

**Option 3 Revisited:** After an agenda review (see Attachment B) and group introductions, Jay Shepard outlined updates he made to Option 3 based on the June 8, 2005 E-Waste meeting discussions (see Attachment C).

“Scope of Products” was added to define listed products for Washington State. Jay also added and defined “functional value” to clarify that it refers to equipment that will operate with contemporary software and technology. He noted the need to establish end-of-life requirements. Personal Digital Assistants (PDAs) are not included in this scope of products.

The “Planning” section included the plan elements necessary for submission to Ecology for individual and collective plans. He also spelled out a proposal for a third party organization (TPO) that manufacturers could join. The TPO would be a quasi-governmental organization supervised by a board with representatives from each member manufacturer, three citizens, and (he suggested at the meeting) a representative from the State Treasurer’s Office. The TPO would set fees sufficient to cover operation of the program from year to year, like a mortgage escrow account. The TPO would receive funds, negotiate contracts with providers, and ensure it operates as cost effectively as possible for member manufacturers, while providing good service for

Washington residents. The TPO would receive no money from the state but would reimburse Ecology for operating fees, etc. Other options for manufacturers include individual or collective, non-TPO plans.

Jay discussed a “Target Recovery Rate” of 80% of televisions sold in Washington state 18 years ago, as well as 80% of computers sold in the state 11 years ago (up from the 8 years shown on Attachment C, based on King County’s updated life expectancy for computers). He noted the Coalition of Electronics Manufacturers put forth a per capita rate of .023 for Hennepin County, and his recovery rate is based on census data indicators showing Washington residents’ ownership of computers is 10% higher than the national average. Once a target recovery rate is established, it would have to be met by TPO and individual plan members. How to distribute the portions of recovery rates between TPO and non-TPOs would need to be discussed.

The proposed “Penalties” were spelled out for failure to reach targeted recovery rates as well as for non-registration and non-plan submission requirements. All money collected from penalties would be used for public awareness education to, hopefully, increase turn-in rates for citizens.

On the matter of “Labeling,” units sold in the State would have to have the manufacturers label on it. Jay also noted the value of having a date of manufacture on each item for sorting purposes, but suggested further discussion on this issue.

Finally, he noted that historic and orphan products are covered under his plan; they would be accepted and prorated among manufacturers.

The group engaged in a question and answer session about Option 3 Revisited, including:

- Jay clarified that census data on television ownership dates back to 1988.
- Manufacturers would pay fees to the TPO according to where the first possession occurs in the State. Jay cited examples: Dell would collect and pay the TPO for an Internet sale. Walmart would collect the fee and pay the television manufacturer for that sale; the manufacturer would in turn give the fee to the TPO. Drop shipments and smaller retailers are areas needing further discussion.
- Participants were not certain if Hennepin County’s curbside collection for e-waste includes apartments.

Next SWAC Subcommittee members gave their impressions of this option as a promising one and expressed appreciation for Jay having taken into account their

comments from the last meeting. One member noted that her group, AeA, is not in agreement among themselves for the best approach to solving the electronics waste problem. The group also expressed reservations about the complexity of the plan. One member noted that this complexity was a result of trying to meet the interests of all parties involved in these discussions.

### **Option 3 Revisited Issues to Resolve and Concerns:**

The SWAC Subcommittee discussed each section of Option 3 Revisited and expressed their concerns as well as other comments they had.

#### ***Scope of Products:***

##### *Concerns:*

- Why is there a need to establish a functional value for equipment? The concern was that functional value might mean little to the consumer. What matters is when the product is discarded by its owner and enters the waste, reuse, or recycling stream.
- What is a good measurement for end-of-life?
- From the consumer's perspective, mice, cables, keyboards and other related peripherals are part of the computer, will be dissatisfied with this exclusion, and these items will end up in the system anyway.
- Computer peripheral equipment, such as printers, DVDs and CDs, will come into the system. There will be no way to pay for it, so it will be sent to developing countries for disposal. There are reports of this happening in California.
- Manufacturers of the above-cited peripherals and equipment are not party to these discussions, so it would be unfair to include these items in the recommendations. However, the concern about these un-addressed products should be noted in Ecology's report to the legislature.
- One participant indicated that only some of these other products discussed could be recycled, while another noted her understanding that all these products could be recycled.

##### *Additional discussion:*

- The group recommended that the "functional use" language be dropped from the plan.

- There were differing opinions as to whether peripherals should be included as covered items. However, there was broad agreement that peripherals should be noted as a concern that should be addressed.

One Subcommittee member suggested that the fee structure address the covered products only, but that accepting and dealing with peripherals and other electronics be included in the plans submitted to Ecology.

- One member suggested adding wording in the legislation that after 18 months, the legislature should look at the other un-addressed waste issues; e.g., inadvertent collection of peripherals, printers, and other toxic electronics waste. In addition, a process for adding covered products should be included.

### ***Planning:***

#### **Concerns:**

- Where does the state and local government play a fair share role in this program? The concern expressed was that manufacturers were responsible for all the planning and costs of the system and that government has a role to play as a consumer. One member stated that particularly large government entities, like the State, should have their own programs.
- In response to the above, another member noted that if HP has a plan, there is no need for local governments to also have a plan for HP computers. Concern was expressed that local government and school districts would be badly hurt by requiring them to plan and pay for their own e-waste, as was suggested above.
- Concern was expressed over the wording to provide collection opportunities that are “convenient enough.” All agreed that “convenient” must be defined. Suellen Mele read some language from the Product Stewardship Institute regarding convenience. The group asked her to forward the language to everyone for review as it sounded like the kind of definition that would be helpful.
- Concern was expressed over the need in individual plans to include the “cost of providing collection services” and that some companies consider this information proprietary. Ecology’s concern is to understand the cost of the system to be responsive to consumers and fair to manufacturers.
- Concern was expressed over ensuring that materials are collected and handled responsibly. It is important to stop sham recycling.

### Additional discussion

- Consumer education, developing their own plans, and paying the cost of their own e-waste were suggested as possible roles for government. One member suggested that for large government entities, e-waste recycling could be included in their RFP process when they purchase equipment.
- One member suggested changing the wording at the end of the seventh paragraph of "Planning" to be "made available to."
- Craig clarified that State agency computers go to General Administration for repositioning in the State, and the rest they sell at auction by the pallet-full. Anything left over is taken to a prison facility in California for recycling.
- One member suggested changing the language so that local governments over a certain size and State government be required to come up with their own plans on how to dispose of e-waste. One member was concerned about how that would be implemented and where to draw the line in size of government that would be excluded from the system. In addition, the Cities and Counties would have to be polled to see how they feel about this proposal.
- One member suggested that language be added demonstrating how the plans are complying with state, federal, and international laws for human health, etc.
- One member suggested that the cost disclosure requirement be eliminated from the plan.
- Since Internet sales are more prominent in rural areas, it was suggested that following Waste Not Washington language based on density of population and availability of existing systems/structures be followed. It was also noted that the consumer has a role to play in the success of the system and that the more convenient it is the more expensive it will be.
- On the suggestion that government play a role in the system, one member noted that educating and promoting the system to consumers will occur at the local level through bill inserts, newsletters, etc.
- One member suggested that Ecology's recycle information website (<http://1800recycle.wa.gov>) is not being marketed to Washington citizens as well as it could be. He stated that Ecology and local governments should be required to help educate Washingtonians as to what options exist for them to recycle and dispose of their electronic products.

***Fee:***

**Concerns:**

- Reuse is desirable. However, the concern is how to achieve reuse without equipment being counted and assessed fees multiple times in the system.
- Determining first point of possession, especially with Internet sales and drop shipments was raised as a concern. Also it was noted that this approach might add unnecessary complexity to the overall plan.
- Internet sales and drop shipments directly to consumers from out of state are not addressed in Option 3 Revisited.
- The impact of this program on smaller retailers was expressed as a concern because of the drop shipment issue?
- One member was concerned about how to capture Internet sales in the system, and how to create a level playing field between out-of-state Internet retailers and in-state Internet and brick and mortar retailers.

***Other discussion:***

- The group debated assessing fees based on market share versus waste stream share. Discussion points included:
  - Larry King noted that in HP's case, they are responsible for whatever percentage of total sales are made to California on a per capita basis. One member asked how to implement that system for manufacturers selling from China.
  - Another member suggested a representative (return) share approach for accuracy: conduct an annual sample of all equipment in the system, with an agreement manufacturers pay into the system for the following year based on that sampling. It was pointed out that, by doing this type of survey, orphan waste can be assigned proportionately to the manufacturers, regardless of whose product it was.
  - One member noted that using a proportionate (return) share approach would increase orphan waste because as marginal manufacturers go out of business they won't pay their share. He noted the inherent unfairness of this fact by noting that Dell has a 30% current market share, but they are only 4% of waste. Zenith has 17% waste share and 2% sales.

- One member noted that in Europe there is no definition of orphan waste and that manufacturers pay based on your market share and are responsible for that percentage of e-waste existing before August 13 of the year that the standards were passed.

One member asked if it was possible to incorporate market and return share concepts together. Jason Linnell from the National Center for Electronics Recycling explained that the Electronics Industry Alliance (EIA) came up with the concept of return share plus orphans. In other words, if a manufacturer is 20% of the market share, but only 10% of the waste, 10% is set aside for future obligations.

- Everyone agreed that this issue bears further study with the objective of arriving at a relatively simple and easily implemented formula.

### ***Third Party Organization:***

#### Concerns:

- Why is a third party organization necessary? One member expressed the concern that it might not be cost effective or necessary. This member later noted that if enforcement on transporters and processors were adequate, she would not be so concerned with TPOs.
- On the matter of TPOs, it was pointed out that there are no solid waste handlers on the board of the TPO as proposed in Option 3 Revisited. Jay suggested that this board position could be added.

#### Other discussion:

- Can there be more than 1 TPO; if so, could it set up a positive competitive environment?
- One member suggested implementing the program first, then evaluating to see if there's a need for a TPO.
- A private, non-profit entity was suggested instead of a quasi-governmental body for TPO structure.
- One member indicated his group liked the TPO idea.

- One member suggested writing into the recommendation that the TPO use an arbitration process and make determination within the TPO as to who pays what/when?

### ***System Management:***

#### *Other discussion:*

- One member suggested the desire to encourage a diversity of collectors. She also suggested a way for TPOs to set up collection incentive payments to encourage legitimate collectors to collect the e-waste for recycling. She also suggested the need for language about recycling standards that the Subcommittee or Ecology could develop.
- David Thompson noted that recyclers of CRT glass are all overseas.
- Sarah Westervelt reported that NEPSI has developed standards with a lot of agreement about adequate insurance for closure, proper management of hazardous components, environmental sound management systems, and health and safety standards for worker exposure. She will provide those standards to the SWAC Subcommittee.
- Sarah, Larry, Dale (convener), Craig, Jerry and Jay will look at and recommend recycling standards from the health and safety perspectives.

### ***Target Recovery Rates:***

#### *Concerns:*

- Concerns were expressed over the formula used to derive these rates and the resulting distribution share.
- Concern was expressed over the premature nature of setting target recovery rates based on unknowns.
- Manufacturers could be penalized for recovery rates that are based on consumers turning in their equipment, which could be unpredictable.
- Target recovery rates would be a disincentive to manufacturers to create products with longer lives.

#### *Other discussion:*



- One member recommended putting the program in place and measuring its success before establishing a mandated target recovery rate.
- In response, another member noted her commitment to flexibility and a possible ramp-up period, but stressed the need for target recovery rates, measurement of the system's success, and accountability within the program, whether manufacturers worked individually or collectively.
- Jay Shepard suggested setting a target rate but that for the first 3-5 years there would not be enforcement or penalties for not meeting the goal. That way, we could assess how realistic the target is.
- The facilitator asked the manufacturers for their thoughts on the proposed recovery rates. Comments included:
  - Dave Thompson noted his employer's limited access to Washington residents and businesses and that they can collect their products only through local governments, retailers and charities. He is uncertain how to compel them to collect these products and he's reluctant to face a target when no one is responsible for collecting products.
  - Larry King expressed concern about how difficult it can be to get consumers to dispose of their products. He also asked the group how well Washington citizens participated in new recycling programs. Did their participation start high and stay there or was it low at first and increased over time?
  - Frank Dick recommended having the State direct the waste programs and use an advanced recovery fee, because it works.
- One member asked if there were other ways to measure the performance of the program besides the recovery rates. He suggested doing a survey with questions like, "Do you have a computer you're not using?", and "What would it take for you to get it out of the garage?" He recommended that participants in the survey could then be called again after a period of time had elapsed and again asked what they had done with their computers to measure whether the e-waste programs established were successful.
- Jay Shepard noted the desire for a materials management approach, where materials that are valuable do get to a place where they're recycled.
- The group discussed using pounds collected as a measurement rather than units. Jay noted that units have been recommended in this plan as newer equipment is becoming lighter in weight all the time and he is concerned about skewed results.

- One member questioned the percentage of new products collected as an appropriate measurement for target recovery versus one that measures an overall reduction of products entering the waste stream.
- A subcommittee of Suellen (convener), Mo, Frank, Butch, and Frank was formed to look at different types of target recovery rates and recommend solutions to the group.

### ***Other Provisions:***

#### Concerns:

- What are the recycling standards? (Where will the materials end up? Are there health and safety regulations?)
- Dates on labels
- General complexity of plan
- Orphan waste
- One member noted that the more equipment that comes through the system, the greater likelihood that costs can be reduced.

Without concluding their discussion of Option 3 Revisited, the group set aside discussing Penalties, Reporting, and Other Provisions until their next meeting.

### **Meeting Dates Changed:**

Due to scheduling constraints of Subcommittee members, the September 14 meeting was cancelled. In the interest of completing the group's discussion, they agreed to meet on August 29 and October 4.

### **Basel Convention:**

Sarah Westervelt from Basal Action Network provided a presentation to the SWAC on the Basel Convention. Her group helps monitor national and international compliance with this Treaty. She explained that the purpose of the "Basel Ban" was to set up explicit barriers in hazardous waste trade. It effectively banned all forms of hazardous waste exports from the 29 wealthiest, most industrialized countries of the Organization of Economic Cooperation and Development (OECD) to all non-OECD countries. The treaty has a common set of "definitions" for all parties to adhere to:

- 1) Minimize the movement of hazardous waste;
- 2) If there is import or export of hazardous waste, there must be prior informed consent from one government to another;
- 3) There is a competent authority in every nation to handle that waste.

The Basel Treaty covers non-working or untested equipment with hazardous components: e.g., CRTs or CRT glass, circuit boards, mercury, PCBs and beryllium.

Article 4 (paragraph 5) of Basel Convention states that, "A party shall not permit hazardous wastes or other wastes to be exported to a non-party or to be imported from a non-party." She said the U.S. is the only developed nation (and one of a handful in the entire world) that has not ratified the treaty. She encouraged SWAC Subcommittee members to ensure recycling from Washington State doesn't go to non-OECD countries, in violation of international law.

The meeting adjourned at 3:15 p.m.

#### ACTION ITEMS FROM THIS MEETING:

- Suellen read language on convenient collection, which she'll email to SWAC members.
- Sarah will send NEPSI standards to all.
- Sarah, Jerry, Larry, Dale (convener), Craig and Jay volunteered to develop and recommend recycling standards.
- Jay will change language of Option 3 Revisited; all solid waste plans need to be made current with this program.
- Kim Hoff is going to check on her client, Amazon, to get their opinion on notification to Washington consumers that the product has been purchased within Washington State (similar to California).
- Jerry noted that one could do statistical sorts annually of e-waste that is in the system. Jay asked Jerry to help develop that.
- Suellen (convener), Mo, Frank, Butch, and Frank are going to look at different types of target recovery rates. They'll look at these targets and make suggestions to the SWAC. Jay needs to be in the loop on this.

## **ATTACHMENT A: Participant List**

Nancy Atwood  
Vicki Austin  
Vicki Austin  
Ron Biery  
Dan Coyne  
Frank Dick  
Kim Ducote  
Dennis Durbin  
Jan Gee  
Signe Gilson  
Tiffany Hatch  
Kim Hoff  
Sego Jackson  
Larry King  
Jason Linnell  
Craig Lorch  
Mo McBroom  
Suellen Mele

Grant Nelson  
David Nightingale  
Jeff Olsen  
Lisa Sepanski  
Jay Shepard  
Jerry Smedes  
Jody Smith  
Doug Smith  
Bill Smith  
Cullen Stephenson  
Jay Sternoff  
David Stitzhal  
Dale Swanson  
Butch Teglas  
David Thompson  
Ha Tran  
Frank Warnke  
Sarah Westervelt

**ATTACHMENT B**  
**Agenda**  
**Washington State Department of Ecology**  
**Electronic Product Recycling and Reuse Project**  
**Meeting # 4: July 12, 2005 - La Quinta Hotel - Federal Way, WA**

**Overall Project Goal:**

Develop recommendations for implementing and financing an electronic product collection, recycling, and reuse program for Washington State.

Meeting Purpose: To complete the discussion of financing options and to talk about remaining issues

Desired Outcomes:

- Record of the group's thoughts on financing options
- Record of group's thoughts on remaining issues
- Plan for final meeting

<b>Time</b>	<b>Topic</b>
8:30 a.m.	Informal Gathering Time—coffee and light refreshments available
9:00 a.m.	Welcome, Introductions and Agenda Review
9:10 a.m.	Financing Options <ul style="list-style-type: none"> <li>• Review and discussion of financing option developed based on our discussion of June 8 in light of the Subcommittee's criteria</li> <li>• Conclusions               <ul style="list-style-type: none"> <li>○ On what do we have agreement?</li> <li>○ Are there areas where we still disagree? Why?</li> <li>○ What will it take to achieve agreement?</li> </ul> </li> </ul>
10:45 a.m.	Break
11:00 a.m.	Remaining Issues the Legislature asked Ecology to Address <ul style="list-style-type: none"> <li>• Review of issues paper covering the following:               <ul style="list-style-type: none"> <li>○ Export of electronic products</li> <li>○ Effects of landfill disposal bans &amp; suitability of landfills for disposal of electronic products</li> <li>○ Business financial incentives</li> <li>○ Economic development opportunities</li> <li>○ Urban and rural recycling challenges</li> <li>○ Impacts on local governments, nonprofit organizations, waste haulers and other stakeholders</li> </ul> </li> <li>• Does the paper address each issue as you understand them?</li> <li>• What needs to be added to fulfill expectations? Can you help provide that information?</li> <li>• Discussion of priority issues</li> </ul>
11:45 a.m.	Lunch
12:30 p.m.	Remaining Issues (continued)
1:30 p.m.	Break
1:45 p.m.	Preparation for final meeting <ul style="list-style-type: none"> <li>• For report drafting purposes, review of:               <ul style="list-style-type: none"> <li>• Report outline</li> <li>• Areas of agreement.</li> <li>• Areas of disagreement.                   <ul style="list-style-type: none"> <li>○ Clarify why there is disagreement and suggest alternatives</li> </ul> </li> </ul> </li> <li>• Set date and location of final meeting.</li> <li>• Agenda for final meeting will include:               <ul style="list-style-type: none"> <li>• Collecting comments on draft report</li> <li>• Does the draft report reflect understandings? What is missing?</li> <li>• What is the overall level of support for the draft recommendations?</li> <li>• Other items to include?</li> </ul> </li> </ul>
3:00 p.m.	Adjourn

## **ATTACHMENT C**

### **Option 3 Revisited**

#### **Scope of Products**

Purpose: To establish products that will be included.

Desktop or personal computers, computer monitors, portable computers, and television that no longer hold functional value. The universe of products covered includes historic, orphan and migrated units that are in the State. Only products owned by residents of the State of Washington are included, verified by address and a valid Washington State driver's license of product owner.

"Functional value" means the value of a covered electronic product's ability to perform the functions for which it was designed in ways that are fully compatible with current technology and new products available to the public. Covered electronic products are considered to have no functional value when like products containing the same processing technology have not been sold to the public for four years or when it no longer operates as originally designed.

#### **Planning**

Purpose: To create a system for collecting transporting and processing end of life electronic products that involves all parties associated with the life of products.

All manufacturers of covered electronic products and retail companies branding as their own covered electronic products for retail sale shall register with the department of their intent to sell and write plans describing how they will provide services to assure recycling of covered electronic products at end of their functional life within and throughout the State of Washington.

Manufacturers may participate in developing and submitting a group plan and commit to participating in a third party managed system with the associated fee described below, or they may write an independent plan and self manage a system of their own design.

Plans must contain the following elements:

- Collection, transporting and processing systems that will be utilized;
- Collection, transportation and processing service providers;
- Costs of providing collection, transportation and processing services, individually;
- Accounting and reporting systems that will be employed to track progress toward meeting target recovery rates and document product sales within the State; and
- Public information campaign to promote the continued use and reuse of covered electronic products and to notify consumers about end of life management of the products by the final users.

Plans must be compatible with the State solid waste management plan and local government solid waste management plans.

The plans will be designed to build upon and utilize existing infrastructure and businesses in the State to the extent practicable and will result in the most cost effective approach for collecting, transporting and processing for the citizens of the State.

Plans must assure that covered electronic products collection services are available throughout the state at a level at least as convenient and available as it is to purchase new covered electronic products. Plans will assure recycling services are provided to:

- Private individuals;
- Small business;
- Government;

- School districts;
- Institutions of higher education; and
- Charities.

Plans may be updated periodically, and will be updated at least every four years, to accommodate changes in products and in response to new collection, transportation and processing technologies that improve efficiency and effectiveness and reduce overall costs.

Plans must be reviewed and approved by the Washington Department of Ecology.

### **Fee**

Purpose: To assure funds are available to pay for collecting, transporting and processing covered products.

A fee is collected at the first point of possession of the electronic product into the State through the distribution system and paid back to the manufacturer.

“Manufacturer” is defined as any one that sells new to the public a brand label covered electronic product in or into the State of Washington. Manufacturers include:

- Original Equipment Manufacturers whose products are sold under brand names owned by the manufacturer, its subsidiaries and related companies;
- Assemblers of covered electronic products that use parts manufactured by others and sold under the assemblers brand names owned by the assembler, its subsidiaries and related companies;
- Retail establishments that sell covered electronic products under their own brand names, its subsidiaries and related companies that are assembled for them by others; and
- Retailers that that assemble and sell covered electronic products directly to the public.

Manufacturers that submit independent plans may request a waiver from the requirement of paying a fee, if:

- The plan submitted demonstrates that the company can contribute to meeting target performance standards for their share of market sales; and
- The manufacturer meets the target performance standards, annually.

Manufacturers using independent plans and who have been granted a waiver from the fee, may not seek reimbursement for any expenses from fees collected to support their statewide system.

The fee will be set by the TPO and be evaluated annually. The funds will be operated similar to an escrow account. Manufacturers will be notified, based on the annual evaluation, if they need to pay more or pay less.

### **Third Party Organization Created**

Purpose: To provide for overall management of the planned systems, create accountability mechanisms and provide a conduit for fund distribution.

A third party organization is created as a quasi-governmental organization within the State. The organization will be known as the MATERIALS MANAGEMENT AND FINANCING AUTHORITY. See *TPO discussion paper for details*.

### **System Management**

Purpose: To establish the key elements of responsibility for the TPO.

- Manufacturers submit fee payments to a third-party organization (TPO).
- Manufacturers contract with the TPO to manage the program described in their plans.
- The TPO is responsible for implementing a statewide program for the collection, transportation and processing of covered electronic products. The TPO will not operate collection, transportation or



processing services directly, but rather will contract for services with qualified service providers operating within the State of Washington.

- All service providers must register with the department before they can contract to provide services with the TPO. The department will maintain a list of qualified service providers that have provided assurance of compliance with all state and federal laws related to waste management.
- The TPO will gather information and report program performance against the target recovery rate to the department.

### **Target Recovery Rates**

To assure that maximum recovery of covered products is achieved.

A “units per capita” recovery rate is established for the program with the TPO and manufacturers bearing joint responsibility to assure that the rates are met. The rate is set at 80% of those units sold into the State 18 years prior for televisions and 80% of CPUs and computer monitors 8 years prior.

### **Reporting**

Purpose: To monitor results of programs, create a multi-faceted accountability mechanism for both collaborative and independent manufacturers, assure fee payments are made appropriately and are adjusted as necessary, and create a tracking system to monitor export of covered products from the State.

Manufacturers will report to Ecology and TPO the number of units that their fee is based on, if using the TPO. Those manufacturers opting to write independent plans will report to Ecology the number of their branded units sold into the State of Washington.

Retailers and direct marketers will report to the department the number of covered electronic products sold into the State by brand and type.

The two reports must balance.

Transporters must report the number of units transported, from which county in the state the products originated and to whom collected products were delivered. Processors must report the number of units processed, where recovered materials were marketed and to whom in a manner that will provide a chain of custody trail to a new product.

### **Penalties**

Purpose: To provide incentives for compliance.

Enforcement is the sole responsibility of the Department of Ecology. Penalties are set for:

- Failure to meet target recovery rate: \$100,000 for each percentage point under the target recovery rate collective assessed to all manufacturers and distributed amongst them as they agree, through the TPO. Money generated through the penalty shall be used by the TPO, less enforcement costs incurred by the department, to pay for public information campaigns that support the collection of covered electronic products.
- Failure to register as a electronic product collector, transporter or processor: \$10,000 for each violation and \$100 for each covered electronic product handled.
- Sale of non-brand label equipment prohibited: \$200 per each unit sold upon first citation of infraction and \$1,000 per each unit sold upon the second and each subsequent citations of infraction.
- Failure to register as a covered electronic products manufacturer: \$10,000 plus \$200 per each unit sold into the State upon first citation of infraction and \$25,000 plus \$1,000 per each unit sold into the State upon the second and each subsequent citation of infraction.

- Failure to submit a plan: \$10,000 plus \$1,000 for each covered electronic product sold into the State. Manufacturers will not be eligible to sell or have sold their covered electronic product brands to any government or political sub-division within the State.
- Unapproved disposal of covered electronic products prohibited: \$200 for each unit. No owner of covered electronic products shall dispose of covered electronic products within the State of Washington outside of the systems established within the approved plans. Funds collected under this provision shall be used to supplement TPO consumer education programs, less cost of bring enforcement actions by the department. (By-pass wastes and products with no secondary market may be disposed of appropriately, only after they have been processed to recover all usable and marketable materials).

## **Other Provisions**

### **Export**

Purpose: To assure that materials generated within Washington State are handled in a manner at least as stringent as required in the United States.

All transporters and processors must report to the TPO the type of material transported and processed and where it was delivered foreign and domestic. All shipments must comply with all state and federal environmental, import and export laws, all applicable laws of receiving countries and all applicable international laws and agreements.

### **Labeling**

Purpose: To assure that all manufacturers of covered products sold within the State are in compliance and have submitted and received approval of their plans.

All covered electronic products sold into the State of Washington shall be labeled by the manufacturer of the products in such a way that the labels cannot be removed and include brand, and name of manufacturer and date of manufacture by month and year.

### **Restrictions on Hazardous Substances**

Purpose: Protection of human health and the environment.

Electronic products sold into the State of Washington must comply with the European Union's directive, "restriction of the use of certain hazardous substances in electrical and electronic equipment," (RoHS).

### **Deferral to national program**

Purpose: To encourage a national system.

This would become void upon the establishment of a national electronic product recycling system established by and funded through an act of Congress.